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State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Norman H. Bangerter
Governor

Dee C. Hansen
Executive Director

Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

March 12, 1993

Certified Return Receipt Requested
P 879 596 421

Mr. David Pearce
Sunnyside Cogeneration Associates
P.O. Box 58087
Salt Lake City, Utah 84158-0087

Dear Mr. Pearce:

Re: Division Order, Sunnyside Cogeneration Associates, Sunnyside Refuse and Slurry, ACT/007/035-DO-93A, Folder #2, Carbon County, Utah

3

Enclosed please find a Division Order and Finding of Permit Deficiency for Sunnyside Cogeneration Associates. If in your review of this Order you have any questions, please call me or Pamela Grubaugh-Littig, Permit Supervisor.

Sincerely,

A handwritten signature in cursive script that reads "Lowell P. Braxton".
Lowell P. Braxton
Acting Director

jbe

Enclosure

cc: P. Grubaugh-Littig
J. Helfrich
Jesse Kelley

007035.93A

P 879 596 421

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

DOGIM JBE ACT10071035 DO-93A

Sent to David Pearce	Street and No. Sunnyside Cogen Assoc.	P.O. State and ZIP Code PO Box 58087	Postage \$2.29	Certified Fee 1.00	Special Delivery Fee	Restricted Delivery Fee	Return Receipt showing to whom and Date Delivered 1.00	Return Receipt showing to whom, Date, and Address of Delivery	TOTAL Postage and Fees \$2.29	Postmark or Date
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PS Form 3800, June 1985

STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE, CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES. (see front)

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier. (no extra charge)
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

U.S.G.P.O. 1987-197-722

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
DAVID PEARCE
SUNNYSIDE COGENERATION ASSOCIATES
PO BOX 58087
SALT LAKE CITY UT 84158-0087

4. Article Number
P 879 596 421

Type of Service:
 Registered Insured
 Certified COD
 Express Return Receipt for Merchandise

Always obtain signature of addressee or agent and **DATE DELIVERED.**

5. Signature - Address
X

6. Signature - Agent
X *Margaret M. Quinn*

7. Date of Delivery
3-15-93

8. Addressee's Address (ONLY if requested and fee paid)

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS
Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN TO 

Print Sender's name, address, and ZIP Code in the space below.



PENALTY FOR PRIVATE USE, \$300

STATE OF UTAH
NATURAL RESOURCES
OFFICE OF THE ATTORNEY GENERAL
TRIAL COURT, SUITE 560
SALT LAKE CITY, UTAH 84103-1001

PS Form 3811, Mar. 1988

U.S.G.P.O. 1988-212-865

DOMESTIC RETURN RECEIPT

DOGIM JBE ACT10071035-DO-93A #3

STATE OF UTAH
DIVISION OF OIL, GAS AND MINING

PERMITTEE

David Pearce
Sunnyside Cogeneration Associates
Sunnyside Refuse & Slurry
P.O. Box 58087
Salt Lake City, Utah 84158-0087

ORDER & FINDINGS
of
PERMIT DEFICIENCY

PERMIT NUMBER ACT/007/035
DIVISION ORDER # 93A

PURSUANT to R645-303-212, the DIVISION ORDERS the PERMITTEE, Sunnyside Cogeneration Associates, to make the permit changes enumerated in the findings of permit deficiency in order to be in compliance with the State Coal Program. These findings of permit deficiency are to be remedied in accordance with R645-303-220.

FINDINGS OF PERMIT DEFICIENCY

The Division finds the permit deficient in that, on page 500-6, the Operation Plan states: "There are no lands within the SCA Permit Area which will be mined for coal."

Regulations Cited

R645-301-523 states that "[t]he permit application will include a description of the mining operation proposed to be conducted during the life of the mine within the proposed permit area,"

Furthermore, R645-100-200 defines as coal mining "excavation for the purpose of obtaining coal" and further provides that "excavation for the purpose of obtaining coal includes extraction of coal from coal refuse piles."

Requirements

In order to correct the above deficiency, the permittee must eliminate from the Operation Plan the above-cited sentence and any other statement that designates this operation as anything other than "coal mining."

There was, at the beginning of the permitting process, some confusion on the part of the permittee as to whether this operation constituted "coal mining" or "remining." Rule R645-100-200, as quoted above, eliminates this confusion and clearly indicates that this operation is a coal mining operation.

FINDINGS OF PERMIT DEFICIENCY

The Division finds the permit deficient in that the Operation Plan contains no provision for temporary placement *or* final disposal of noncoal mine waste. Although this operation will not generate its own noncoal mine waste, noncoal mine waste deposited in the permit area by the previous permittee will unavoidably be recovered in the course of excavation and require both temporary placement and final disposal.

Regulation Cited

R645-301-528.330 states that "[n]oncoal mine wastes including, but not limited to, grease, lubricants, paints, flammable liquids, garbage, abandoned mining machinery, lumber and other combustible materials generated during mining activities will be placed and stored in a controlled manner in a designated portion of the permit area." R645-301-528.330 further states that "[f]inal disposal of noncoal mine wastes will be in a designated disposal site in the permit area or a State-approved solid waste disposal area."

Requirements

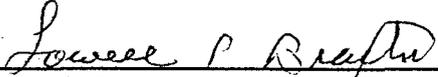
In order to correct the above deficiency, the permittee must make provision, in the Operation Plan, for the temporary placement and for the final disposal of all noncoal mine waste handled at this site. Provision for the handling of noncoal mine waste is a "carryover project" from the previous permittee. That is, the previous permittee had agreed to make such provision and it is still necessary under the present permittee.

ORDER

Sunnyside Cogeneration Associates is ordered to make the requisite permit changes in accordance with R645-303-220 and to submit a complete application for permit change to address the findings of permit deficiency within 30 days of date of

the Order. Approval by the Division must be obtained within 60 days of date of this Order. All approvals not obtained within 60 days may result in a hindrance violation.

Ordered this 12th day of March, 1993, by the Division of Oil, Gas, and Mining.



Lowell P. Braxton, Acting Director
Division of Oil, Gas and Mining

A:\SCADO.MEM



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Norman H. Bangerter
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Dianne R. Nielson, Ph.D.
Division Director

355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203
801-538-5340

March 16, 1993

CERTIFIED RETURN RECEIPT
P 074 978 332

Mr. David Pearce
Sunnyside Cogeneration Associates
P.O. Box 58087
Salt Lake City, Utah 84158-0087

Dear Mr. Pearce:

Re: Proposed Assessment for State Violation No. N93-40-1-1, Sunnyside Cogeneration Associates, Sunnyside Refuse & Slurry, ACT/007/035, Folder #5, Carbon County, Utah

The undersigned has been appointed by the Board of Oil, Gas and Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed is the proposed civil penalty assessment for the above-referenced violation. The violation was issued by Division Inspector, Hugh Klein on February 16, 1993. Rule R645-401-600 et. sec. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent, within fifteen (15) days of receipt of the Notice of Violation, has been considered in determining the facts surrounding the violation and the amount of penalty.

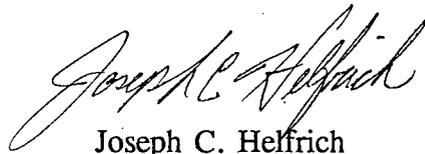
Under R645-401-700, there are two informal appeal options available to you:

1. If you wish to informally appeal the fact of this violation, you should file a written request for an Informal Conference within 30 days of receipt of this letter. This conference will be conducted by the Division Director. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.

2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within 30 days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.

If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment. Please remit payment to the Division, mail c/o Vicki Bailey.

Sincerely,



Joseph C. Helfrich
Assessment Officer

jbe

Enclosure

cc: Bernie Freeman, OSM

WORKSHEET FOR ASSESSMENT OF PENALTIES
UTAH DIVISION OF OIL, GAS AND MINING

COMPANY/MINE Sunnyside Cogeneration Associates/Sunnyside Refuse & Slurry

NOV #N93-40-1-1

PERMIT # ACT/007/035

VIOLATION 1 OF 1

ASSESSMENT DATE 03/16/93

ASSESSMENT OFFICER Joseph C. Helfrich

I. HISTORY MAX 25 PTS

A. Are there previous violations which are not pending or vacated, which fall within 1 year of today's date?

ASSESSMENT DATE 03/16/93

EFFECTIVE ONE YEAR TO DATE 03/16/92

PREVIOUS VIOLATIONS

EFFECTIVE DATE

POINTS

1 point for each past violation, up to one year;
5 points for each past violation in a CO, up to one year;
No pending notices shall be counted.

TOTAL HISTORY POINTS 0

II. SERIOUSNESS (either A or B)

NOTE: For assignment of points in Parts II and III, the following applies. Based on the facts supplied by the inspector, the Assessment Officer will determine within which category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an Event (A) or Hindrance (B) violation? Hindrance

A. Event Violations Max 45 PTS

1. What is the event which the violated standard was designed to prevent?

2. What is the probability of the occurrence of the event which a violated standard was designed to prevent? _____

... PROBABILITY	RANGE
... None	0
... Unlikely	1-9
... Likely	10-19
... Occurred	20

ASSIGN PROBABILITY OF OCCURRENCE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

3. What is the extent of actual or potential damage? RANGE 0 - 25*

*In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

ASSIGN DAMAGE POINTS _____

PROVIDE AN EXPLANATION OF POINTS

B. Hindrance Violations MAX 25 PTS

1. Is this a potential or actual hindrance to enforcement? Actual
RANGE 0 - 25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

ASSIGN HINDRANCE POINTS 12

PROVIDE AN EXPLANATION OF POINTS

The permittee's failure to correctly identify the mining operation at all points of public access, actually hindered the inspector from evaluating compliance with the regulations.

TOTAL SERIOUSNESS POINTS (A or B) 12

III. NEGLIGENCE MAX 30 PTS

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? **IF SO - NO NEGLIGENCE;**
 OR Was this a failure of a permittee to prevent the occurrence of a violation due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? **IF SO - NEGLIGENCE;**
 OR Was this violation the result of reckless, knowing, or intentional conduct? **IF SO - GREATER DEGREE OF FAULT THAN NEGLIGENCE.**

... No Negligence	0
... Negligence	1-15
... Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary

ASSIGN NEGLIGENCE POINTS 10

PROVIDE AN EXPLANATION OF POINTS

Lack of diligence with respect to compliance with DOGM regulations.

IV. GOOD FAITH MAX 20 PTS. (EITHER A or B) (Does not apply to violations requiring no abatement measures.)

- A. Did the operator have onsite the resources necessary to achieve compliance of the violated standard within the permit area?
 ... **IF SO - EASY ABATEMENT**
 Easy Abatement Situation
- | | |
|---|-------------|
| ... Immediate Compliance | -11 to -20* |
| ... Immediately following the issuance of the NOV) | |
| ... Rapid Compliance | -1 to -10* |
| ... (Permittee used diligence to abate the violation) | |
| ... Normal Compliance | 0 |
- (Operator complied within the abatement period required)
 (Operator complied with conditions and/or terms of approved Mining and Reclamation Plan)

* Assign in upper or lower half of range depending on abatement occurring in 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance OR does the situation require the submission of plans prior to physical activity to achieve compliance?

... IF SO - DIFFICULT ABATEMENT

Difficult Abatement Situation

... Rapid Compliance -11 to -20*

... (Permittee used diligence to abate the violation)

... Normal Compliance -1 to -10*

... (Operator complied within the abatement period required)

... Extended Compliance 0

(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard, or the plan submitted for abatement was incomplete)

(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? _____ ASSIGN GOOD FAITH POINTS -10

PROVIDE AN EXPLANATION OF POINTS

Diligence exercised in abating the violation.

V. ASSESSMENT SUMMARY FOR N93-40-1-1

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>12</u>
III.	TOTAL NEGLIGENCE POINTS	<u>10</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-10</u>
	TOTAL ASSESSED POINTS	<u>12</u>
	TOTAL ASSESSED FINE	<u>\$ 120.00</u>

jbe